



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

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AUG 14 2015

Memorandum

To: Assistant Director, Energy, Minerals and Realty Management Directorate
(WO-300, MIB, Room 5625)

From: Acting State Director, Utah (UT-910) 

Subject: Updated Utah Master Leasing Plan (MLP) Strategy

BACKGROUND

This memorandum revises and supersedes the memorandum issued by this office on May 29, 2015, with the subject of "Updated Bureau of Land Management (BLM) Utah Master Leasing Plan (MLP) Strategy and Initiation of the San Rafael Desert MLP."

In May 2010, BLM issued Washington Office (WO) Instruction Memorandum No. 2010-117 (Leasing Reform). This directive introduced significant changes for BLM's oil and gas lease sale review process as well as the concept of a new land use planning tool known as the MLP. In describing the MLP concept, Leasing Reform directed BLM state offices to use the following four criteria to identify areas where MLP preparation may be required:

1. A substantial portion of the area is not leased.
2. There is a majority federal mineral interest.
3. The oil and gas industry has expressed a specific interest in leasing, and there is a moderate or high potential for oil and gas confirmed by the discovery of oil and gas in the general area.
4. Additional analysis or information is needed to address likely resource or cumulative impacts if oil and gas development were to occur where there are multiple use or natural resource conflicts, impacts to air quality, impacts on the resources or values of any unit of the National Park System or National Wildlife Refuge or a National Forest System wilderness area, or impacts on other specially designated areas.

An MLP may also be completed under other circumstances at the State Director's discretion.

In February of 2011, the BLM Director approved BLM-Utah's Leasing Reform implementation plan, which included preparation of the following five MLPs:

- Moab (Canyon Country District Office)
- San Rafael River¹ (Green River and Color Country District Offices)
- Vernal (Green River District Office)
- Glen Canyon² (Canyon Country District Office)
- Book Cliffs Divide-Cisco³ (Canyon Country District Office)

All five of BLM-Utah's approved MLPs are within land use planning areas for which Resource Management Plans (RMPs) were completed in 2008. Four of the five MLPs would be prepared as "stand alone" planning efforts; the Vernal MLP would likely be part of a larger plan amendment effort, as discussed below.

The BLM-Utah Canyon Country District is currently preparing the Moab MLP, which includes an environmental impact statement (EIS) and will amend the Moab and Monticello RMPs. A public review period for the preliminary alternatives for the Moab MLP concluded on May 28, 2014; the draft MLP/EIS is scheduled to be released for public review by the end of August this year, and a Record of Decision (ROD) is anticipated in the summer of 2016. In addition to oil and gas, the Moab MLP addresses potash leasing and development.

Funding and staffing limitations, as well as other planning priorities, have impeded BLM-Utah's ability to initiate its other four pending MLPs. In accordance with the discretion afforded to State Directors by Leasing Reform, BLM-Utah has deferred new leasing proposals submitted for all lands within the pending MLPs in order to preserve potential alternatives for those plans. As a result, millions of acres of land with oil and gas interest have been removed from availability for oil and gas leasing and development for the last several years, and this is likely to continue until the MLPs are completed.

In order to identify actions that could be taken to facilitate the completion of its MLPs in a timelier and more effective manner, BLM-Utah conducted supplemental reviews of its approved MLPs in 2013, 2014 and again in 2015. Based on the latest review, BLM-Utah developed the following strategy for addressing the uninitiated MLPs.

DISCUSSION

San Rafael Desert MLP – Initiate preparation

To more accurately describe the area encompassed by the initially proposed San Rafael River MLP, the name has been changed to the San Rafael Desert MLP. The San Rafael Desert MLP consists of 524,854 acres located in Emery and Wayne Counties. It meets the majority of the criteria for preparation of an MLP as described below:

- 1) A substantial portion (70%) of the MLP is currently unleased. (Meets criterion #1)

¹ Name now changed to the San Rafael Desert MLP

² Name now changed to the San Juan MLP

³ Name now changed to the Cisco Desert MLP

- 2) There is a majority Federal mineral interest (83%). (Meets criterion #2)
- 3) There was some industry interest in leasing before designation of the MLP. A few of the December 2008 lease sale parcels, which were later withdrawn, were along the western bank of the Green River. The area has had some exploration for oil and gas in the past resulting in numerous plugged and abandoned wells. There has been no oil or gas production from the MLP area. Overall, this criterion is not met due to there being no discovery of oil or gas within the MLP area. (Does not meet criterion #3)
- 4) There is a potential that oil and gas development could conflict with the resources and values of Canyonlands National Park, which is east of and downwind from the MLP area. Possibly affected resources could include visuals, air quality, night skies and recreation. (Could meet criterion #4)

A primary reason for initiating an MLP in the San Rafael Desert area is to resolve long-standing lease protests and complete “curative NEPA” for leases which were placed in suspension because of litigation. There are five “sold-but-not-issued” lease parcels within the San Rafael Desert MLP. Those parcels were protested and sold at the February 2006 and May 2006 lease sales. These protests would be resolved through the MLP effort.

Of particular importance is resolution of the 16 suspended oil and gas leases within the MLP area. A summary of the issues regarding the 16 suspended leases is below:

- Leases litigated in the United States District Court, District of Utah: *Southern Utah Wilderness Alliance (SUWA) et al v. Gale Norton (BLM)*, 2:04-cv-0574-DAK (filed 8/2/2006); *SUWA et al v Lynn Scarlett (BLM)*, 2:06-cv-0342-DAK (filed 4/25/2006); and *SUWA et al v Dirk Kempthorne (BLM)*, 2:08-cv-0064-DAK (filed 12/16/2008). In these cases, the plaintiffs alleged that BLM violated the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA) and had improperly issued the 16 leases discussed here, as well as numerous other leases throughout the state.
- August 1, 2006, the United States District Court ruled on *SUWA v Norton*, 2:04-cv-0574-DAK. The court ruled that BLM violated NEPA by not considering non-wilderness study area (WSA) lands with wilderness characteristics (WC). It reversed BLM’s decision that denied SUWA’s protest and remanded it back to BLM to consider new information about wilderness values and characteristics on the parcels (leases).
- Lawsuits 2:06-cv-0342-DAK and 2:08-cv-0064-DAK were pending before the same judge in the same court. The plaintiffs made the same allegations as those made by SUWA in 2:04-cv-0574-DAK regarding BLM’s failure to consider significant new information on WC in violation of NEPA.
- Because of the similarities in 2:06-cv-0342-DAK and 2:08-cv-0064-DAK, BLM agreed to suspend the contested leases and motioned the court to have these cases remanded back for further consideration.
- The court agreed to BLM’s motion and also stated that it was unnecessary to rule on SUWA’s claims of NHPA violations because they had already remanded the cases back to BLM because of the NEPA problems.

The action currently before BLM is to cancel the lease(s), modify the stipulations, or simply lift the suspensions on these suspended leases based on a NEPA analysis that includes non-WSA lands with WC. This would be done during the San Rafael Desert MLP effort.

It is anticipated that the San Rafael Desert MLP could be accomplished through an environmental assessment (EA) to be prepared by the Price and Richfield Field Offices. The Price Field Office would be the lead office as the majority of acreage is within that office. The MLP/EA would likely amend leasing decisions in the Price and Richfield Field Office RMPs signed in 2008.

Vernal MLP - Postpone preparation

A plan evaluation “Core Team” composed of staff from the WO-210, Division of Decision Support, Planning and NEPA, the Utah State Office and the Green River District Office completed an evaluation of the 2008 Vernal Field Office RMP between September of 2014 and January of 2015, in order to evaluate implementation of the plan and consider the potential scope of a Vernal MLP. In doing so, it became apparent that there are a number of potential planning actions and/or programmatic resource issues that would only be partially addressed by the analysis in an MLP. For example, a commitment was made by BLM while resolving protests of the 2008 RMP to address, as part of the next planning process in the Vernal Field Office, two proposed Areas of Critical Environmental Concern (ACECs) that were submitted, but inadvertently overlooked, during the 2008 Vernal RMP preparation process. The potential benefits of utilizing the Vernal MLP to codify certain conservation measures contained within a recently executed conservation agreement for the Graham’s and White River beartongues, two sensitive plant species with substantial areas of protected habitat within the boundaries of the Vernal MLP were also considered. The team also evaluated reconsidering management decisions in the Vernal RMP related to white-tailed prairie dog and travel management issues.

The evaluation ultimately showed that the resources of concern most needing to be addressed are geographically well beyond the proposed MLP analysis area and beyond the identified scope of the MLP. Therefore, it has been decided to postpone preparation of the MLP and pursue other options to address the resource issues identified. Currently under consideration is to undertake a plan amendment (or amendments) of sufficient geographic scope to address the deficiencies identified in the plan evaluation and include an MLP analysis as part of the overall plan, similar to how MLPs are being conducted in other states.

Cisco Desert MLP – Initiate cultural resource inventories and start public planning process following Moab MLP

To more accurately describe the area encompassed by the initially proposed Book Cliffs Divide – Cisco MLP, the name has been changed to the “Cisco Desert MLP.” The Cisco Desert MLP encompasses approximately 320,000 acres of land that is located within Grand County, Utah, and the BLM Utah’s Canyon County District. With regard to Leasing Reform’s four criteria for MLP preparation, the existing conditions for the Cisco Desert MLP planning area are as follows:

1) A substantial portion (50%) of the MLP is currently unleased. Furthermore, considering BLM Utah’s policy to defer “new” leasing within the boundaries of its MLPs pending their completion and that it is more likely than not that some of the currently existing leases within the MLP will either expire or terminate before BLM-Utah completes an MLP for the area, it is anticipated that the proportion unleased lands within the Cisco Desert MLP will increase in the near future. (Meets criterion #1)

- 2) There is a majority Federal mineral interest (86%) within the MLP. (Meets criterion #2)
- 3) In the time since BLM-Utah first implemented Leasing Reform (2011), the oil and gas industry has submitted nominations that collectively encompass a majority of the unleased lands within the Cisco Desert MLP. Nominations of lands within the MLP have diminished with recent lease sales, but this may be attributable to the industry's recognition of BLM-Utah's decision to defer leasing within MLPs pending the completion of the subject MLP. While most of the historical oil and gas exploration that has occurred within the Cisco Desert MLP has been unsuccessful, there are, however, a few leases currently producing oil and/or gas leases within the planning area for the MLP (mostly in proximity to the MLP's southern and western boundaries). Given the historical trends and limited scale for oil and gas production within the MLP, as well as the recent decline in nominations, there is a degree of uncertainty as to whether the Cisco Desert MLP meets criterion #3. However, considering that a majority of the unleased lands within the MLP has been nominated within the last five years, along with the presence of existing oil and gas production within the planning area, albeit at a relatively minimal scale, there is a possibility that additional information (e.g. new exploration, etc.) could reveal that the Cisco Desert MLP does in fact meet criterion #3. (Possibly meets criterion #3)
- 4) The applicable land use plan, the Moab Field Office Record of Decision and Approved Resource Management Plan (2008) (Moab RMP), for the Cisco Desert MLP appears to have adequately considered reasonably foreseeable resource conflicts of any significance. However, it is possible that the conditions for a particular resource(s) within the Cisco Desert MLP may have changed in the time since the issuance of the Moab RMP such that the resource(s) could benefit from reconsideration through the MLP process. (Could meet criterion #4)

While it fails to meet all four of the criteria that, if present, would require the preparation of an MLP, the planning area for the Cisco Desert MLP does encompass several "sold-but-not-issued" and suspended lease parcels, which BLM-Utah will seek to address through the MLP process. More specifically, the Cisco Desert MLP encompasses four ("sold-but-not-issued") lease parcels that were sold at an oil and gas lease sale held in November of 2005, but for which leases have not been issued due to an unresolved protest of the parcels that involves potential conflicts between oil and gas development and habitat for white-tailed prairie dog, a Utah sensitive species. The Cisco Desert MLP also encompasses ten leases that have been in a suspended status for several years as a result of the following lawsuits, which were filed in the United States District Court for the District of Utah: *SUWA et al v. Gale Norton (BLM)*, 2:04-cv-0574-DAK (filed 8/2/2006); *SUWA et al v Lynn Scarlett (BLM)*, 2:06-cv-0342-DAK (filed 4/25/2006); and *SUWA et al v Dirk Kempthorne (BLM)*, 2:08-cv-0064-DAK (filed 12/16/2008).

Much like with the San Rafael Desert MLP, BLM-Utah plans to utilize the MLP process for the Cisco Desert MLP in order to address the unresolved protest for the "sold-but-not-issued" lease parcels and to guide future decisions regarding whether to cancel, modify or lift the suspensions on the suspended leases within the MLP planning area.

In order to facilitate its timely and efficient completion, BLM-Utah will initiate preparation efforts for the Cisco Desert MLP by obligating fiscal year (FY) 2015 funds for conducting "Class I" and "Class II" cultural resources inventories within the MLP planning area. Conducting these cultural inventories will help BLM-Utah better understand and characterize the density and distribution of cultural resources within the planning area, which will assist in

making well-informed and timely oil and gas leasing decisions both during and after the MLP preparation process.

The cultural resources inventories that will be completed within the Cisco Desert MLP are one component of a larger landscape-level cultural resources inventory and mitigation strategy, which BLM-Utah recently developed for eastern Utah that encompasses, in addition to the Cisco Desert MLP, the planning area for the San Juan MLP (see below). The BLM-Utah will initiate these BLM-funded cultural resources inventories in the late summer of 2015.

Because of the level of staff and other resources that the Canyon Country District is currently devoting to completing the Moab MLP, BLM-Utah plans to initiate formal public scoping efforts for the Cisco Desert MLP project in 2016. The results of the cultural resources inventories conducted within the planning area will be utilized, along with other factors, to determine the scope of the Cisco Desert MLP project. The BLM-Utah will then publish a Notice of Intent (NOI) in the *Federal Register* to initiate public scoping for the Cisco Desert MLP project.

San Juan MLP – Postpone preparation

The planning area for the San Juan MLP is known to contain significant prehistoric archaeological resources. Not surprisingly, the potential impacts to these resources from fluid mineral development have been a focal point for several oil and gas lease sale protests of proposed lease parcels within the MLP. These protests have identified several cultural resource sites and landscapes within the MLP planning area that could be impacted by oil and gas development, including those located in or near Alkali Ridge, the Montezuma Creek watershed, and the San Juan River. During recent oil and gas lease sales, BLM-Utah has deferred several proposed lease parcels within the MLP boundary because of determinations that additional analysis was needed in order to assess and address the potential impacts of oil and gas leasing on cultural resources.

In light of the extraordinary cultural resources within the planning area for the San Juan MLP and the associated concerns that those resources could be adversely impacted by oil and gas development, as a part of the previously discussed landscape-level cultural resources inventory and mitigation strategy, BLM-Utah will complete a “Class I” and “Class II” cultural resources inventories within the planning area for the San Juan MLP. Also as previously discussed, BLM Utah plans to begin conducting these cultural resources inventories in the late summer or early fall of 2015. Once complete, these cultural resources inventories will help BLM to better understand and characterize the density and distribution of the cultural resources within the San Juan MLP planning area, which will assist the Bureau in making well-informed and timely oil and gas leasing decisions in the future.

However, given the resources that the Canyon County District is devoting to completing the Moab MLP and then Cisco Desert MLP, it would be impractical for the District to initiate the San Juan MLP at this time. As such, BLM-Utah intends to postpone the San Juan MLP pending the completion of the Moab and Cisco Desert MLPs. Once the Moab and Cisco Desert MLPs have been completed, preparation of the San Juan MLP will be reevaluated within the context of the resource conditions within the MLP planning area.

NEXT STEPS

Complete the Moab MLP - Following publication of the Draft MLP/EIS scheduled for later this summer, comments will be analyzed and incorporated into the Final MLP/EIS with a Record of Decision expected in the summer 2016.

Initiate the San Rafael Desert MLP - Initiate formal preparation of the San Rafael Desert MLP by publishing an NOI in the *Federal Register* to provide for the potential amendment of leasing decisions in the Price Field Office (Green River District) and Richfield Field Office (Color Country District) RMPs. At this time, we estimate 25 months from the NOI to complete an EA-level MLP. The BLM-Utah has identified \$200,000 from its FY2015 budget to initiate the planning effort this FY; \$773,000 in additional funding would be needed in FY16 and FY17 to complete the project.

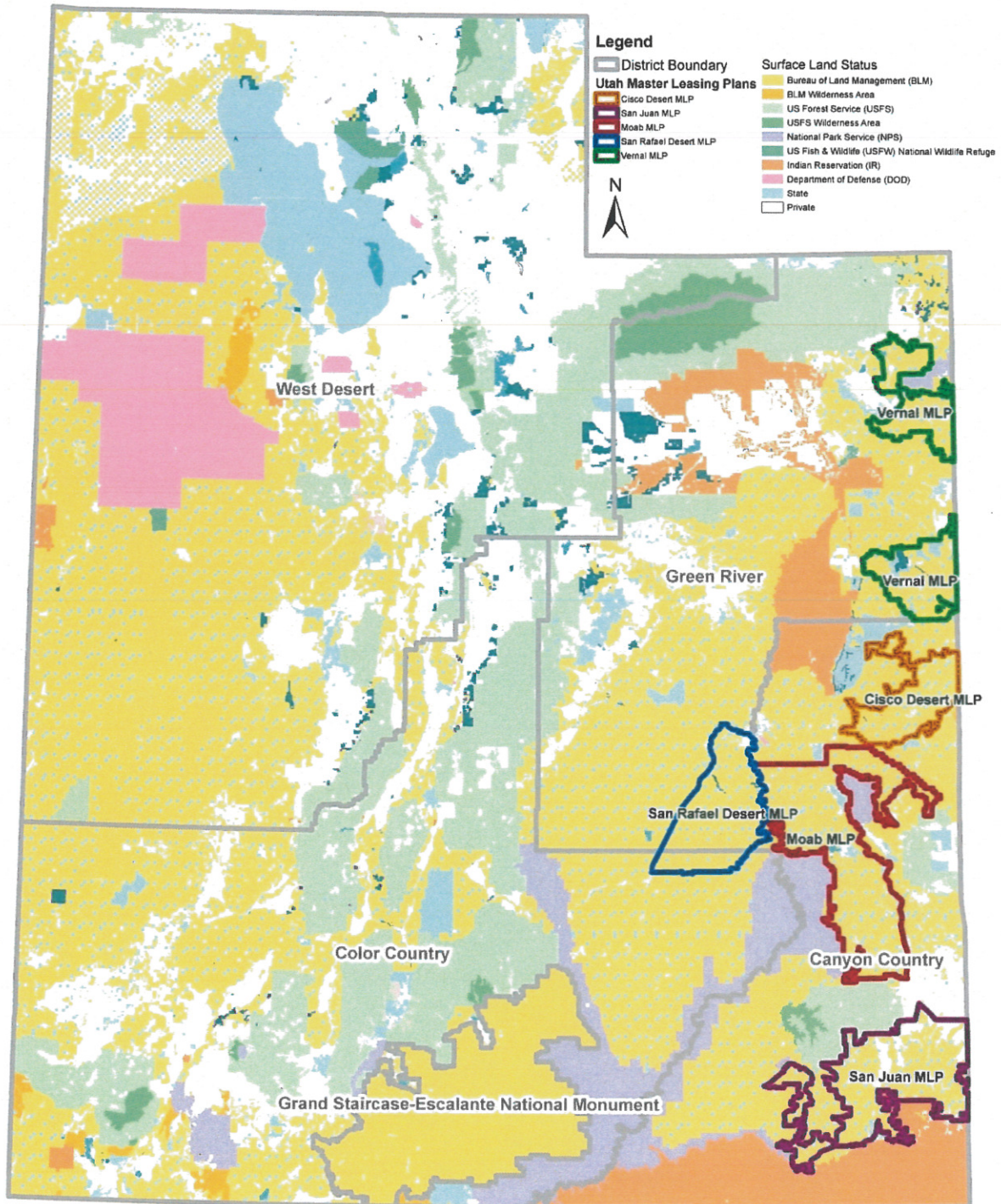
Initiate Cisco Desert MLP cultural resource inventories and start public planning process following Moab MLP - Once the Moab MLP is complete, the results of the cultural resources inventories within the planning area for the Cisco Desert MLP can be utilized as a reference in determining the scope for the Cisco Desert MLP project. The BLM-Utah would then publish an NOI in the *Federal Register* to initiate formal public scoping for the Cisco Desert MLP project.

Attachments:

1. Map of BLM Utah MLPs (1 pp)
2. Map of the San Rafael Desert MLP (1 pp)
3. Map of the Cisco Desert MLP (1pp)

Attachment 1

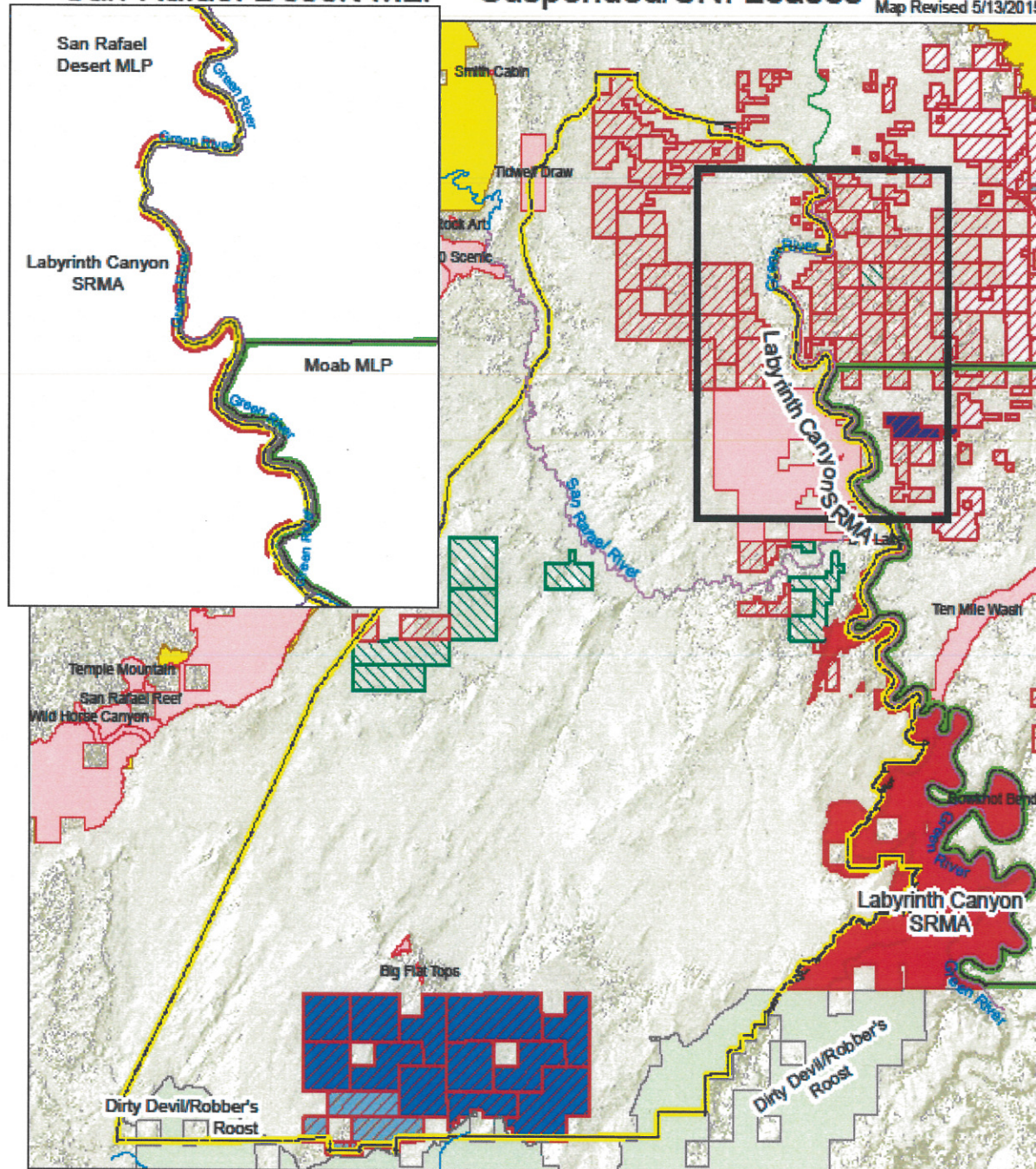
BLM Utah MLPs



Attachment 2

San Rafael Desert MLP - Suspended/SNI Leases

Map Revised 5/13/2015



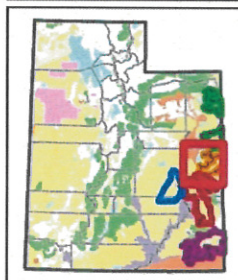
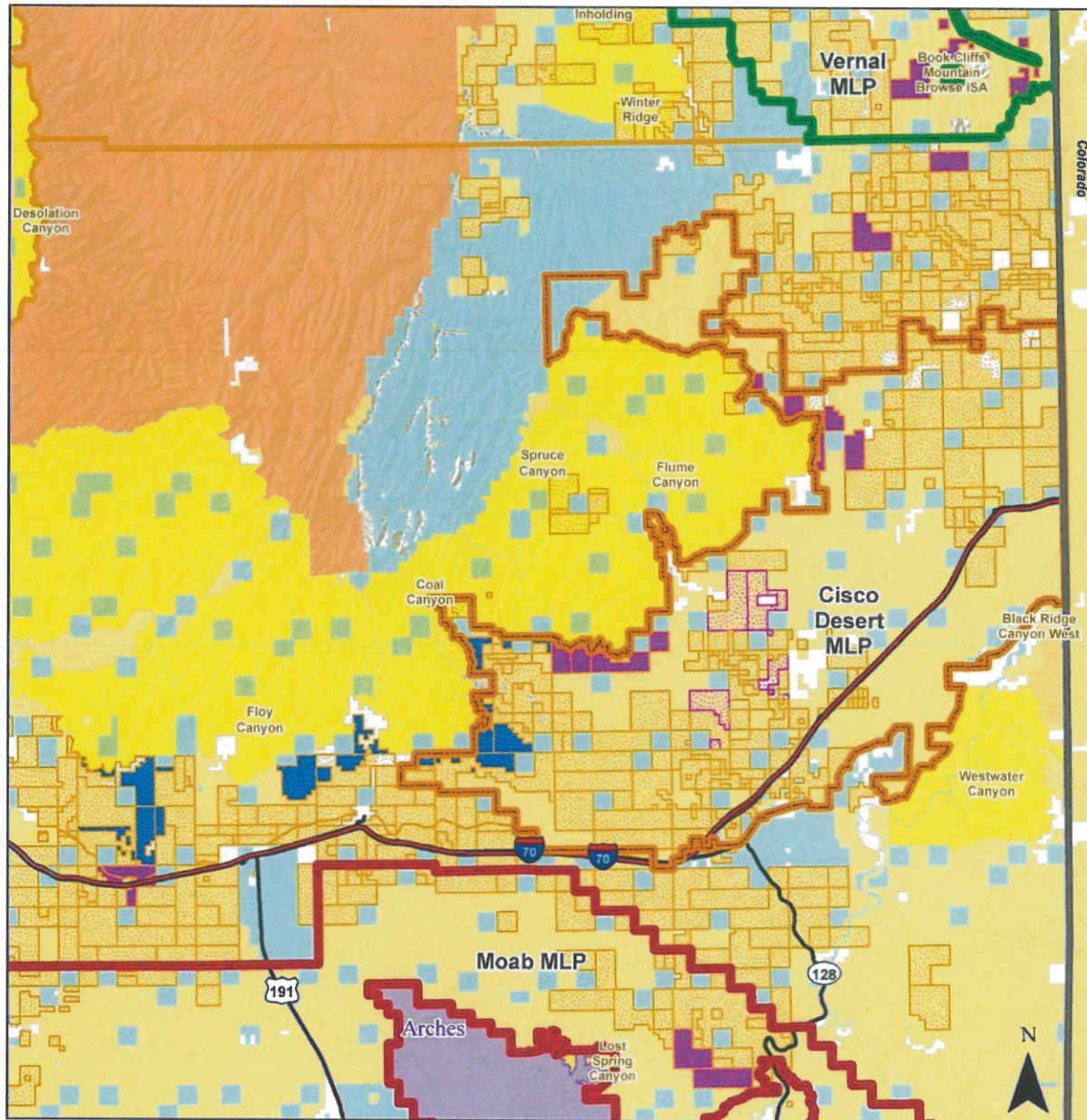
- | | | |
|---|-----------------------|-------------------------|
| Sold But Not Issued | San Rafael Desert MLP | Suspended Leases |
| Authorized | Moab MLP | DC 2:08CV0064 (DAK3) |
| SRMA - Price | Wild & Scenic River | 2:04CV574 (DAK1) |
| SRMA - Richfield | Eligible | Wilderness Study Area |
| Area of Critical Environmental Concern (ACEC) | Designated | |



Attachment 3

Cisco Desert Master Leasing Plan - Oil and Gas Bureau of Land Management - Utah

August 2015



Field Office Boundary	Utah Oil & Gas Lease Parcels	Surface Land Status
Wilderness Study Areas	Authorized	Bureau of Land Management (BLM)
Utah Master Leasing Plans	Sold but not issued	BLM Wilderness Area
Cisco Desert MLP	2:04CV574 (DAK1)	US Forest Service (USFS)
San Juan MLP	DC 2:08CV0064 (DAK3)	USFS Wilderness Area
Moab MLP		National Park Service
San Rafael Desert MLP		Indian Reservation
Vernal MLP		State
		Private